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12 United States of America

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14 IN THE UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA

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17 UNITED STATES OF AMERICA, Plaintiff,  
18 v.  
19 ALBERTO CERVANTES, Defendant.

20 CASE NO. 1:23-CR-00146-ADA  
21 STIPULATION REGARDING EXCLUDABLE  
22 TIME PERIODS UNDER SPEEDY TRIAL ACT;  
23 FINDINGS AND ORDER  
24 COURT: Hon. Ana de Alba

25  
26 The parties agree and stipulate to set an arraignment on an Information and change of plea  
27 proceeding for September 11, 2023 at 8:30 a.m.

28  
19 STIPULATION

20 Plaintiff United States of America, by and through its counsel of record, and defendant, by and  
21 through defendant's counsel of record, hereby stipulate as follows:

22 1. On May 18, 2023, the government filed a complaint charging Cervantes with a violation  
23 of Title 18, United States Code, Section 922(g)(1) – Felon in Possession of Ammunition. Doc. 1. On  
24 July 24, 2023, the government filed an Information charging the defendant with the same offense, and  
25 on July 25, 2023, the government filed an executed plea agreement and a waiver of indictment. Docs.  
26 11, 12, 13.

27 2. By this stipulation, defendant now moves to set an arraignment and change of plea  
28 proceeding for **September 11, 2023, at 8:00 a.m.** and to exclude time between the filing of the

Information (July 24, 2023) and September 11, 2023.

3. The parties agree and stipulate, and request that the Court find the following:

a) The parties are ready to proceed with an arraignment and change of plea

b) The first available date on which defense counsel does not have a conflict is

September 11, 2023.

c) Counsel for defendant believes that failure to grant the above-requested arraignment and change of plea setting would deny him the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d) The government does not object to the date selected.

e) Based on the above-stated findings, the ends of justice served by scheduling the requested outweigh the interest of the public and the defendant in an indictment or trial the original dates prescribed by the Speedy Trial Act.

f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which an indictment must be filed and within which a trial must commence, the time period of July 24, 2023 to 1, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy indictment/trial.

[Remainder of page intentionally left blank.]

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which an indictment must be filed and a trial must commence.

IT IS SO STIPULATED.

Dated: August 25, 2023

PHILLIP A. TALBERT  
United States Attorney

/s/ KIMBERLY A. SANCHEZ  
KIMBERLY A. SANCHEZ  
Assistant United States Attorney

Dated: August 25, 2023

/s/ RICHARD BESHWATE  
RICHARD BESHWATE  
Counsel for Defendant  
ALBERTO CERVANTES

IT IS SO ORDERED.

Dated: August 28, 2023

  
John H. H. Kim